

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER AND LIGHT COMPANY	DOCKET NOS. TF-03-164 TF-03-176
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ORDER DENYING MOTION TO DISMISS AND REQUIRING REPORT

(Issued July 18, 2003)

On May 28, 2003, Interstate Power and Light Company (IPL) filed with the Utilities Board (Board) proposed tariffs, identified as TF-03-164 and TF-03-176. The two tariffs are identical. One tariff applies to the service territory formerly served by IES Utilities Inc. and the other to the service territory formerly served by Interstate Power Company. The proposed tariffs would provide non-firm best efforts standby electric service to customers with on-site generation. Under the proposed tariffs, customers would pay a monthly system access charge for transmission and distribution. Energy sales to customers would be priced at a percentage over IPL's incremental cost and energy purchases would be priced at a percentage of IPL's decremental cost.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a motion to dismiss and answer on June 17, 2003. Among other things, Consumer Advocate argued the proposed tariffs constitute piecemeal or single-issue ratemaking. On June 25, 2003, the Board docketed the tariffs for

investigation and to give the Board an opportunity to fully address the issues raised by the motion to dismiss. IPL filed a resistance to the motion to dismiss on July 11, 2003.

Consumer Advocate contended that the proposed tariffs constituted piecemeal or single issue ratemaking and that all costs, including cost reductions, and all revenues, including revenue increases, must be considered and evaluated at the same time in a general rate proceeding. Consumer Advocate argued that individual rate changes outside of a general rate case context are prohibited.

IPL maintained that the proposed tariffs could not be piecemeal ratemaking because they were not designed to produce additional earnings for IPL. IPL said the 5 percent mark-up on sales to standby customers and discount on purchases from them were designed as an incentive to the customers to match the output of their generators to their loads.

One important factor was not addressed in either the motion to dismiss or resistance. The Iowa Legislature recently passed House File 391, which, among other things, provides for a cogeneration pilot program in new Iowa Code § 15.269. The legislation also provides that such projects may qualify for ratemaking principles pursuant to Iowa Code § 476.53.

The proposed tariffs filed by IPL appear to be designed to work in conjunction with a customer that qualifies for the cogeneration pilot project. Participation in the pilot program is voluntary. Because a cogeneration pilot project would likely not be

considered by a commercial or industrial customer if there was no standby service available, the Board tentatively concludes that House File 391 creates an exception to any prohibition against piecemeal or single-issue ratemaking, particularly when participation in the pilot is voluntary on the part of the customer. Moreover, the proposed tariffs need to be considered now, rather than in a future rate case, because House File 391 was effective July 1, 2003. Based on the tentative finding that House File 391 creates an exception to any prohibition against piecemeal or single-issue ratemaking, the Board will not address the merits of the arguments raised by Consumer Advocate and IPL at this time. If it is necessary to proceed to hearing on this tariff, the Board may consider this issue on the basis of the record made, but at this time the Board will not grant Consumer Advocate's motion to dismiss because of piecemeal ratemaking.

Consumer Advocate also argued that insufficient factual evidence was provided to support the tariff, and, therefore, it should be dismissed. However, the Board believes sufficient information was provided in the initial filing and additional evidence can be obtained in the discovery process. The motion to dismiss will be denied.

Because of the pending motion to dismiss, IPL and Consumer Advocate may not have had the opportunity to conduct discovery to determine what issues, if any, there are with respect to the merits of the tariff. The Board will not set a procedural schedule at this time but will require IPL, Consumer Advocate, and any intervenors to

file a joint report within 20 days identifying what issues, if any, there are with respect to the proposed standby tariffs.

IT IS THEREFORE ORDERED:

1. The motion to dismiss filed by the Consumer Advocate Division of the Department of Justice on June 17, 2003, is denied.

2. IPL, Consumer Advocate, and any intervenors shall file a joint report within 20 days from the date of this order identifying what issues, if any, there are with respect to the proposed tariffs.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 18th day of July, 2003.